

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

DIOGENES LIMITED and)	
COLOSSUS (IOM) LIMITED,)	
)	
Plaintiffs,)	
)	C.A. No. 21-1695 (MN) (CJB)
v.)	
)	
DRAFTKINGS, INC.,)	
)	
Defendant.)	

STIPULATION AND [PROPOSED] ORDER TO STAY
PENDING *INTER PARTES* REVIEW

WHEREAS, Plaintiffs Diogenes Limited and Colossus (IOM) Limited and Defendant DraftKings, Inc. have agreed to stay this case, and it is hereby STIPULATED AND AGREED, by and between the parties, and subject to the approval of the Court, that:

1. This case is STAYED pending final resolution, including all appeals, of the following *inter partes* review proceedings: IPR2023-00262 (US9117341), IPR2023-00266 (US10970969), IPR2023-00267 (US10997822), and, to the extent that it is ultimately instituted after a request for rehearing or other review, IPR2023-00268 (US11200779) (“instituted IPRs”);
2. All dates and deadlines currently scheduled in this case are vacated;
3. Neither party shall be barred from seeking, or continuing to seek, foreign discovery to be used in this litigation during the pendency of the stay;
4. The stay shall not affect any party’s right to designate experts, and resolve any disputes, pursuant paragraph 23 of the Protective Order (D.I. 36);
5. The Plaintiffs shall not be barred from dismissing, with prejudice, any claims asserted in the case during the pendency of the stay;

6. Each party reserves the right to seek court relief to lift or modify the stay due to changed circumstances, and the sufficiency of such changed circumstances will be governed by the standard applicable in this District. In particular, the Plaintiffs may request that the Court lift the stay if the Plaintiffs dismiss with prejudice from this litigation all asserted claims that are challenged in the instituted IPRs, which Defendants may or may not oppose;
7. The parties may jointly request that the Court lift the stay;
8. Within 30 days after the final resolution, including all appeals, of the instituted IPRs, or within 30 days after the parties jointly request that the Court lift the stay, or within 30 days after the Court lifts the stay on a request from either party in accordance with paragraph 6, whichever comes first, the parties agree to file a joint status report with their proposal(s) as to how this case should proceed;
9. The parties shall meet and confer and submit a proposed scheduling order within thirty (30) days of the date that the stay of this case is lifted; and
10. The parties to this stipulation are not waiving any rights, claims, or defenses of any kind, including jurisdictional defenses, and no part of this stipulation shall be construed as any admission nor any waiver of any rights, claims, or defenses including any grounds for or defense to lifting the stay.

DLA PIPER LLP (US).

/s/ Stephanie E. O'Byrne

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September 6, 2023

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SO ORDERED this ____ day of _____ 2023.

UNITED STATES MAGISTRATE JUDGE